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CRAVATH, SWAINE & MOORE

INTERSTATE COMMERCE COMMISSION

ONE CHASE MANHATTAN PLAZA

NEW YORK, N.Y. 10005

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C-5234149

NO. 1
OCT 25 1978

Date.....

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October 25, 1978

FEE OPERATION BR.
I.C.C.

OCT 25 1 16 PM '78
RECEIVED

Pullman Leasing Company
Finance Agreement Dated as of August 1, 1978
9.375% Conditional Sale Indebtedness
Due January 15, 1996

Dear Sir:

Pursuant to Section 20c of the Interstate Commerce Act and the Commission's rules and regulations thereunder, as amended, I enclose herewith on behalf of Pullman Leasing Company for filing and recordation counterparts of the following documents:

(1) Conditional Sale Agreement dated as of August 1, 1978, between Pullman Leasing Company, as Vendee, and Pullman Incorporated (Pullman Standard Division), as Builder, Vendor;

(2) Agreement and Assignment dated as of August 1, 1978, between Pullman Incorporated (Pullman Standard Division), as Builder, and The Connecticut Bank and Trust Company, as Agent, Assignee.

The names and addresses of the parties to the aforementioned documents are as follows:

Counterpart - Guido Zoni

MAURICE T. MOORE
BRUCE BROMLEY
WILLIAM B. MARSHALL
RALPH L. McAFEE
ROYALL VICTOR
ALLEN H. MERRILL
HENRY W. DE KOSMIAN
ALLEN F. MAULSBY
STEWART R. BROSS, JR.
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JOHN R. HUPPER
SAMUEL C. BUTLER
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GEORGE J. GILLESPIE, III
RICHARD S. SIMMONS
WAYNE E. CHAPMAN
THOMAS D. BARR
MELVIN L. BEDRICK
GEORGE T. LOWY
ROBERT ROSENMAN

JAMES H. DUFFY
ALAN J. HRUSKA
JOHN E. YOUNG
JAMES M. EDWARDS
DAVID G. ORMSBY
DAVID L. SCHWARTZ
RICHARD J. HIEGEL
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DAVID O. BROWNWOOD
PAUL M. DODYK
RICHARD M. ALLEN
THOMAS R. BROME
ROBERT D. JOFFE
ROBERT F. MULLEN
ALLEN FINKELSON
RONALD S. ROLFE
JOSEPH R. SAHID
PAUL C. SAUNDERS
MARTIN L. SENZEL
DOUGLAS D. BROADWATER
ALAN C. STEPHENSON

(1) Vendee:

Pullman Leasing Company
200 South Michigan Avenue
Chicago, Illinois 60604

(2) Builder-Vendor:

Pullman Incorporated (Pullman
Standard Division)
200 South Michigan Avenue
Chicago, Illinois 60604

(3) Agent-Assignee:

The Connecticut Bank and Trust
Company
One Constitution Plaza
Hartford, Connecticut 06115

Please file and record the documents referred to in this letter and cross-index them under the names of the Vendee, the Builder-Vendor and the Agent-Assignee.

The equipment covered by the aforementioned documents consist of the following:

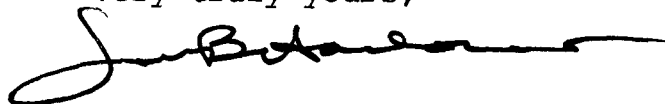
One thousand (1000) 100-ton steel welded and riveted, triple, open hopper cars, AAR mechanical designation HT, bearing identifying numbers CR489801 through CR490800, both inclusive.

There is also enclosed a check for \$50 payable to the Interstate Commerce Commission, representing the fee for recording the Conditional Sale Agreement and related Agreement and Assignment (together constituting one document).

Please stamp all counterparts of the enclosed documents with your official recording stamp. You will wish to retain one copy of the instruments for your files. It is requested that the remaining counterparts be delivered

to the bearer of this letter.

Very truly yours,

A handwritten signature in dark ink, appearing to read "John B. Harlow", with a long, sweeping horizontal line extending to the right.

John B. Harlow
As Agent for Pullman Leasing Company

H. G. Homme, Jr., Esq., Acting Secretary,
Interstate Commerce Commission,
Washington, D. C. 20423.

Encls.

11

BY HAND

Interstate Commerce Commission
Washington, D.C. 20423

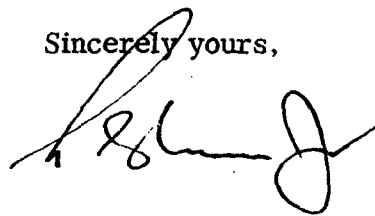
OFFICE OF THE SECRETARY

John B. Harlow
Cravath, Swine & Moore
One Chase Manhattan Plaza
New York, New York 10005

Dear Mr. Harlow:

The enclosed document(s) was recorded pursuant to the provisions of Section 20(c) of the Interstate Commerce Act, 49 U.S.C. 20(c), on **October 25, 1978** at **1:20 pm** , and assigned recordation number(s) **9795**

Sincerely yours,

A handwritten signature in black ink, appearing to read 'H.G. Homme, Jr.', written over a horizontal line.

H.G. Homme, Jr.,
Acting Secretary

Enclosure(s)

SE-30-T
(2/78)

RECORDATION NO. 9795 FILED 1428

OCT 25 1978 -1 20 PM

INTERSTATE COMMERCE COMMISSION

CONDITIONAL SALE AGREEMENT

Dated as of August 1, 1978

between

PULLMAN LEASING COMPANY

and

PULLMAN INCORPORATED
(Pullman Standard Division)

CONDITIONAL SALE AGREEMENT

Table of Contents*

	<u>Page</u>
PARTIES	C-1
PREAMBLES	C-1
ARTICLE 1. DEFINITIONS	C-1
1.1. Meaning of "Builder", "Vendor" and Other Terms	C-1
ARTICLE 2. CONSTRUCTION AND SALE	C-2
ARTICLE 3. INSPECTION AND DELIVERY	C-3
3.1. Place of Delivery	C-3
3.2. Force Majeure	C-3
3.3. Exclusion of Equipment	C-3
3.4. Inspection	C-3
3.5. Builder's Responsibilities After Delivery .	C-4
ARTICLE 4. PURCHASE PRICE AND PAYMENT	C-4
4.1. Meaning of "Purchase Price"	C-4
4.2. Designation of Equipment; Settlement and Closing Dates	C-4

* This Table of Contents has been included in this document for convenience only and does not form a part of, or affect any construction or interpretation of, this document.

	<u>Page</u>
4.3. Indebtedness of Vendee to Vendor	C-5
4.4. Conditional Sale Indebtedness; Payment Dates; Interest	C-6
4.5. Calculation of Interest	C-6
4.6. Penalty Interest	C-7
4.7. Currency of Payment	C-7
ARTICLE 5. SECURITY INTEREST IN THE EQUIPMENT	C-7
5.1. Vendor To Retain Security Interest; Acces- sions Are Part of Equipment	C-7
5.2. Obligations Upon Payment of Conditional Sale Indebtedness	C-8
ARTICLE 6. TAXES	C-9
6.1. General Tax Indemnification	C-9
6.2. Survival	C-10
ARTICLE 7. MAINTENANCE; CASUALTY OCCURRENCES; REPLACEMENT EQUIPMENT; PREPAYMENT	C-10
7.1. Maintenance	C-10
7.2. Casualty Occurrences	C-10
7.3. Casualty Value	C-11
7.4. Obligations upon Payment of Casualty Value	C-12
7.5. Marking of Replacement Equipment	C-12

	<u>Page</u>
7.6. Certificates and Opinions upon Replacement of Equipment	C-12
7.7. Investment of Funds Held by Vendor	C-13
7.8. Optional Prepayment	C-14
ARTICLE 8. INSURANCE PROCEEDS AND CONDEMNATION PAYMENTS	C-16
8.1. Insurance To Be Maintained	C-16
8.2. Application of Proceeds	C-16
ARTICLE 9. REPORTS AND INSPECTIONS	C-17
ARTICLE 10. MARKING OF EQUIPMENT	C-17
10.1. Marking of Equipment	C-17
10.2. No Designations of Ownership	C-18
ARTICLE 11. COMPLIANCE WITH LAWS AND RULES	C-18
ARTICLE 12. POSSESSION AND USE	C-19
12.1. Possession and Use of Equipment by Vendee	C-19
12.2. Lease Permitted; Lease Subordinate	C-19
ARTICLE 13. PROHIBITION AGAINST LIENS	C-19
13.1. Vendee To Discharge Liens	C-19
13.2. No Breach for Certain Liens	C-20
ARTICLE 14. INDEMNITIES AND WARRANTIES	C-20
14.1. Indemnification	C-20
14.2. Survival; No Subrogation	C-22
14.3. Vendee Not Released If Equipment Damaged or Lost	C-22

	<u>Page</u>
14.4. Warranties of Builder; Patent Indemnities	C-22
ARTICLE 15. ASSIGNMENTS	C-22
15.1. Assignment by Vendee	C-22
15.2. Assignment by Vendor	C-23
15.3. Notice of Assignment by Vendor	C-23
15.4. No Set-Off Against Conditional Sale Indebtedness Upon Assignment	C-23
15.5. Settlement after Assignment	C-24
ARTICLE 16. DEFAULTS	C-25
16.1. Events of Default; Declaration of Default; Acceleration of Conditional Sale Indebtedness	C-25
16.2. Waiver of Defaults	C-27
ARTICLE 17. REMEDIES	C-27
17.1. Vendor May Take Possession of Equipment ...	C-27
17.2. Assembling of Equipment for Vendor	C-28
17.3. Vendor May Dispose of or Retain Equipment .	C-28
17.4. Vendor May Sell Equipment; Vendee's Right of Redemption	C-29
17.5. Sale of Equipment by Vendor	C-30
17.6. Effect of Remedies and Powers and Exercise Thereof	C-30
17.7. Deficiencies	C-31
17.8. Expenses	C-31

	<u>Page</u>
17.9. Remedies Subject to Mandatory Legal Requirements	C-31
ARTICLE 18. APPLICABLE STATE LAWS	C-32
18.1. Conflict with State Laws	C-32
18.2. Waiver of Notices	C-32
ARTICLE 19. RECORDING	C-32
ARTICLE 20. PAYMENT OF EXPENSES	C-33
ARTICLE 21. REPRESENTATIONS AND WARRANTIES OF BUILDER	C-33
ARTICLE 22. ARTICLE AND PARAGRAPH HEADINGS; EFFECT AND MODIFICATION OF AGREEMENT	C-33
22.1. Article and Paragraph Headings for Convenience Only	C-33
22.2. Effect and Modification of Agreement	C-34
ARTICLE 23. NOTICE	C-34
ARTICLE 24. LAW GOVERNING	C-34
ARTICLE 25. EXECUTION	C-35
TESTIMONIUM	C-35
SIGNATURES	C-35
ACKNOWLEDGMENTS	C-36
Schedule I	C-37
Annex A--Miscellaneous	C-38
Annex B--Specifications	C-41

CONDITIONAL SALE AGREEMENT dated as of August 1, 1978, between PULLMAN INCORPORATED (Pullman Standard Division), a Delaware corporation (hereinafter called the Builder or the Vendor as the context may require, all as more particularly set forth in Article 1 hereof) and PULLMAN LEASING COMPANY, a Delaware corporation (hereinafter called the Vendee).

The Builder has agreed to construct, sell and deliver to the Vendee, and the Vendee agrees to purchase, subject to the terms and conditions hereof, the railroad equipment described in Annex B hereto to the extent not excluded herefrom under the provisions hereof (hereinafter called the Equipment as more specifically described in paragraph 4.2 hereof).

The Vendee intends to enter into a lease (hereinafter called the Lease) with Consolidated Rail Corporation, a Pennsylvania corporation (hereinafter called the Lessee), which will be expressly subject to the rights and remedies of the Vendor hereunder.

Accordingly, in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto do hereby agree as follows:

ARTICLE 1

DEFINITIONS

1.1. Meaning of "Builder", "Vendor" and Other Terms.
The term "Builder", whenever used in this Agreement, means, both before and after any assignment of its rights hereunder, the party hereto which has manufactured the units of Equipment to be constructed and sold hereunder and any successor or successors for the time being to its manufacturing properties and business. The term "Vendor", whenever used in this Agreement, means, before any such assignment, the Builder, and, after any such assignment, both any assignee or assignees for the time being of such particular assigned rights, as regards such rights, and also any assignor as regards any rights hereunder that are retained or excluded from any

assignment. The parties hereto contemplate that this Agreement will be assigned to The Connecticut Bank and Trust Company, acting as agent under a Finance Agreement dated as of the date hereof (said agent being hereinafter sometimes called the Assignee and said Finance Agreement being hereinafter called the Finance Agreement). Any reference herein to this Agreement or any other agreement shall mean said agreement and all amendments and supplements hereto or thereto then in effect. The term "person", whenever used in this Agreement, means any natural person, firm, trust, partnership, joint venture, unincorporated association, corporation, government or governmental agency. The term "business days", whenever used in this Agreement, means calendar days, excluding Saturdays, Sundays and any other days on which banking institutions in Hartford, Connecticut or New York, New York, are authorized or obligated to be closed.

ARTICLE 2

CONSTRUCTION AND SALE

Pursuant to this Agreement, the Builder shall construct the Equipment at its plant described in Annex B hereto and will sell and deliver the Equipment to the Vendee, and the Vendee will (as hereinafter provided) purchase from the Builder and accept delivery of and pay for the Equipment, each unit of which shall be constructed in accordance with the specifications referred to in Annex B hereto and in accordance with such modifications thereof as may be agreed upon in writing between the Builder, the Vendee and the Lessee (which specifications and modifications, if any, are hereinafter called the Specifications). The Builder represents and warrants that (i) the design, quality and component parts of each unit of the Equipment to be delivered by the Builder under this Agreement shall conform, on the date of delivery and acceptance thereof, to all Department of Transportation and Interstate Commerce Commission requirements and specifications and to all standards, if any, recommended by the Association of American Railroads reasonably interpreted as being applicable to railroad equipment of the character of such unit, (ii) none of such component parts will be used components and (iii) each unit of Equipment will be new railroad rolling stock equipment first put into service not earlier than October 2, 1978.

ARTICLE 3

INSPECTION AND DELIVERY

3.1. Place of Delivery. The Builder will deliver the units of the Equipment to the Vendee at the place or places specified in Annex B hereto, freight charges and storage charges, if any, prepaid, in accordance with the delivery schedule set forth in Annex B hereto.

3.2. Force Majeure. The Builder's obligation as to time of delivery is subject, however, to delays resulting from causes beyond the Builder's reasonable control, including but not limited to acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riot or civil commotion, sabotage, strikes, differences with workmen, accidents, fire, flood, explosion, damage to plant, equipment or facilities, delays in receiving necessary materials or delays of carriers or subcontractors.

3.3. Exclusion of Equipment. Notwithstanding the provisions of paragraph 3.2, any Equipment not delivered and accepted hereunder on or before January 15, 1979, shall be excluded from this Agreement. If any Equipment shall be excluded herefrom pursuant to the preceding sentence, the parties hereto shall execute an agreement supplemental hereto limiting this Agreement to the Equipment not so excluded herefrom.

3.4. Inspection. During construction, the Equipment shall be subject to inspection and approval by the authorized inspectors of the Vendee, and the Builder shall grant to such authorized inspectors reasonable access to its plant. The Builder agrees to inspect the materials used in the construction of the Equipment in accordance with the standard quality control practices of the Builder. Upon

completion of each unit or of a number of units of the Equipment, such unit or units shall be presented to an inspector of the Vendee for inspection at the place specified for delivery of such unit or units, and if each such unit conforms to the Specifications and requirements and standards applicable thereto, such inspector or an authorized representative of the Vendee shall execute and deliver to the Builder a certificate of acceptance (hereinafter called the Certificate of Acceptance) stating that such unit or units have been inspected and accepted on behalf of the Vendee and are marked in accordance with paragraph 10.1 hereof; provided, however, that the Builder shall not thereby be relieved of any of its warranties referred to in paragraph 14.4 hereof.

3.5. Builder's Responsibilities After Delivery. On delivery by the Builder hereunder of units of Equipment and acceptance of each such unit hereunder at the place specified for delivery, the Vendee will assume the responsibility for and risk of, and shall not be released from its obligations hereunder in the event of, any damage to or the destruction or loss of such unit; provided, however, that the Builder shall not thereby be relieved of any of its warranties referred to in paragraph 14.4 hereof.

ARTICLE 4

PURCHASE PRICE AND PAYMENT

4.1. Meaning of "Purchase Price". The base price per unit of the Equipment is set forth in Annex B hereto. Such base price is subject to such increase or decrease as is provided for in the purchase order or orders covering the Equipment or as otherwise may be agreed to by the Builder and the Vendee. The term "Purchase Price" as used herein shall mean the base price as so increased or decreased, all as set forth in the invoices (which shall specify the Purchase Price of each unit of the Equipment covered thereby) of the Builder delivered to the Vendee.

4.2. Designation of Equipment; Settlement and Closing Dates. The Equipment shall be settled for in such number of groups of units of the Equipment delivered to and accepted by the Vendee as is provided in Item 2 of Annex A hereto or as the Vendee and the Builder may otherwise agree.

The term "Closing Date" with respect to any Group (as hereinafter defined) shall mean such date (on or after October 19, 1978, and on or before January 15, 1979, not more than ten business days following presentation by the Builder to the Vendee of the invoice and the Certificate or Certificates of Acceptance for such Group, as is specified by the Vendee by written notice delivered to the Vendor at least five business days prior to the Closing Date designated therein, but in no event shall Equipment with an aggregate Purchase Price of more than \$23,946,900 be settled for prior to January 15, 1979, or such earlier date, if any, as the Short-Term Investors (as defined in the Finance Agreement) shall have paid to the Agent the amounts referred to in the second paragraph of Paragraph 2 of the Finance Agreement. Such notice shall specify the aggregate Purchase Price of such Group. The term "Group", as used herein, shall mean the group of units of Equipment being settled for on any Closing Date.

4.3. Indebtedness of Vendee to Vendor. The Vendee hereby acknowledges itself to be indebted to the Vendor in the amount of, and hereby promises to pay in cash or immediately available funds to the Vendor at such place as the Vendor may designate, the Purchase Price of the Equipment, as follows:

(a) on the Closing Date with respect to each Group an amount equal to (i) 34.627% of the aggregate Purchase Price of the units of Equipment in such Group plus (ii) the amount, if any, by which (x) the aggregate Purchase Price of all units of the Equipment for which settlement has theretofore or is then being made, as stated in the invoice or invoices therefor (said invoiced prices being hereinafter called the Invoiced Purchase Prices), exceeds (y) the sum of \$20,000,000 and any amount or amounts previously paid or payable with respect to the Invoiced Purchase Prices pursuant to this subparagraph (a); and

(b) in 17 annual installments, as hereinafter provided, an amount equal to the aggregate Purchase Price of all units of Equipment settled for, less the aggregate amount paid or payable with respect thereto

pursuant to subparagraph (a) of this paragraph (said portion of the Purchase Price payable in installments under this subparagraph (b) being hereinafter called the Conditional Sale Indebtedness).

If this Agreement shall be assigned by the Builder, the obligations of the Vendee under subparagraph (a) of the preceding paragraph shall be unsecured and the Builder shall not have any lien on, or claim against, the Equipment or any part thereof with respect to such obligations.

4.4. Conditional Sale Indebtedness; Payment Dates; Interest. The installments of the Conditional Sale Indebtedness shall be payable annually on January 15 in each year, commencing January 15, 1980, to and including January 15, 1996. The unpaid balance of the Conditional Sale Indebtedness shall bear interest from the Closing Date in respect of which such indebtedness was incurred at the rate of 9.375% per annum. Interest on the unpaid balance of the Conditional Sale Indebtedness shall be payable to the extent accrued on January 15 and July 15 in each year commencing January 15, 1979, to and including January 15, 1996. Each such date for the payment of principal and/or interest is herein called a "Payment Date". The amounts of Conditional Sale Indebtedness and/or interest payable on each Payment Date shall be calculated so that the amount and allocation of principal and/or interest payable on each Payment Date shall be substantially in proportion to the amount and allocation of principal and/or interest on such Payment Date set forth in Schedule I hereto (subject to the provisions of Article 7 hereof) and the aggregate of such installments of principal shall completely amortize the Conditional Sale Indebtedness at maturity. The Vendee will furnish to the Vendor promptly after the last Closing Date a schedule, in such number of counterparts as shall be requested by the Vendor, showing the respective amounts of principal and/or interest payable on each Payment Date. If any Payment Date is not a business day, such payment shall be payable on the preceding business day.

4.5. Calculation of Interest. Interest under this Agreement shall be calculated on the basis of a 360-day year of twelve 30-day months except that interest payable on

January 15, 1979, shall be computed on an actual elapsed time basis.

4.6. Penalty Interest. The Vendee will pay interest, to the extent legally enforceable, at the rate of 10.375% per annum (hereinafter called the Penalty Rate) upon all amounts remaining unpaid after the same shall have become due and payable pursuant to the terms hereof or such lesser amount as shall be legally enforceable, anything herein to the contrary notwithstanding.

4.7. Currency of Payment. All payments provided for in this Agreement shall be made in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. Except as provided in Articles 7 and 16 hereof, the Conditional Sale Indebtedness shall not be prepayable prior to the date it becomes due.

ARTICLE 5

SECURITY INTEREST IN THE EQUIPMENT

5.1. Vendor To Retain Security Interest; Accessories are Part of Equipment. The Vendor shall and hereby does retain a security interest in the Equipment until the Vendee shall have made all its payments under this Agreement and shall have kept and performed all its agreements herein contained, and notwithstanding the delivery of the Equipment to and the possession and use thereof by the Vendee or the Lessee as provided in this Agreement. Such retention of security interest is solely to secure performance by the Vendee of its obligations under this Agreement, and, subject thereto, ownership of the Equipment shall be and remain in the Vendee subject to such performance. Any and all parts installed on and additions and replacements made to

any unit of the Equipment (i) which are not readily removable without causing material damage to such unit, (ii) the cost of which is included in the Purchase Price of such unit, (iii) in the course of ordinary maintenance of such unit or (iv) which are required for the operation or use of such unit by the Association of American Railroads or the Interstate Commerce Commission, the United States Department of Transportation or any other applicable regulatory body, shall constitute accessions to the Equipment and shall be subject to all the terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement.

5.2. Obligations Upon Payment of Conditional Sale Indebtedness. Except as otherwise specifically provided in Article 7 hereof, when and only when the Vendor shall have been paid the full amount of the Conditional Sale Indebtedness, together with interest and all other payments as herein provided, and all the Vendee's obligations herein contained shall have been performed by the Vendee, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee without further transfer or action on the part of the Vendor. However, the Vendor, if so requested by the Vendee at that time, will (a) execute an instrument releasing its security interest in the Equipment and transferring such interest to the Vendee or upon its order, free of all liens, security interests and other encumbrances created or retained hereby and deliver such instrument to the Vendee at its address referred to in Article 23 hereof, (b) execute and deliver at the same place, for filing, recording or depositing in all necessary public offices, such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records the title of the Vendee to the Equipment and (c) pay to the Vendee any money paid to the Vendor pursuant to Article 7 hereof and not theretofore applied as therein provided. The Vendee hereby waives and releases any and all rights, existing or that may be acquired, in or to the payment of any penalty, forfeit or damages for failure to execute and deliver such instrument or instruments or to file any certificate of payment in compliance with any law or statute requiring the filing of the same, except for failure to execute and deliver such bill or bills of sale or instrument

or instruments or to file such certificate within a reasonable time after written demand by the Vendee.

ARTICLE 6

TAXES

6.1. General Tax Indemnification. All payments to be made by the Vendee hereunder will be free of expense to the Vendor for collection or other charges and will be free of expense to the Vendor with respect to the amount of any local, state, Federal or foreign taxes (other than gross receipts taxes [except gross receipts taxes in the nature of or in lieu of sales or use or rental taxes], taxes measured by net income, excess profits taxes and similar taxes) or license fees, assessments, charges, fines or penalties hereafter levied or imposed upon or in connection with or measured by this Agreement or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof (all such expenses, taxes, license fees, assessments, charges, fines and penalties being hereinafter called Taxes), all of which Taxes the Vendee assumes and agrees to pay on demand in addition to the Purchase Price of the Equipment. The Vendee will also pay promptly all Taxes which may be imposed upon the Equipment delivered to it or for the use or operation thereof or upon the earnings arising therefrom (except as provided above) or upon the Vendor by reason of its interest therein (except as provided above) and will keep at all times all and every part of the Equipment free and clear of all Taxes which might in any way affect the security interest of the Vendor or result in a lien upon any part of the Equipment; provided, however, that the Vendee shall be under no obligation to pay any Taxes of any kind so long as it is contesting in good faith and by appropriate legal or administrative proceedings such Taxes and the nonpayment thereof does not, in the reasonable opinion of the Vendor, adversely affect the security interest or property or rights of the Vendor in or to the Equipment or otherwise under this Agreement. If any Taxes shall have been charged or levied against the Vendor directly and paid by the Vendor, the Vendee shall reimburse the Vendor upon presentation of an invoice therefor, and any amounts so paid by the Vendor shall be secured by and

under this Agreement; provided, however, that the Vendee shall not be obligated to reimburse the Vendor for any Taxes so paid unless the Vendor shall have been legally liable with respect thereto (as evidenced by an opinion of counsel for the Vendor) or unless the Vendee shall have approved in writing the payment thereof.

6.2. Survival. All the obligations of the Vendee under this Article 6 shall survive and continue notwithstanding payment in full of all amounts due under this Agreement.

ARTICLE 7

MAINTENANCE; CASUALTY OCCURRENCES; REPLACEMENT EQUIPMENT; PREPAYMENT

7.1. Maintenance. The Vendee shall, at its own cost and expense, maintain and keep each unit of the Equipment in good operating order, repair and condition, ordinary wear and tear excepted, and eligible for interchange service.

7.2. Casualty Occurrences. In the event that any unit of the Equipment shall be or become worn out, lost, stolen, destroyed, irreparably damaged from any cause whatsoever or taken or requisitioned by condemnation or otherwise by the United States Government for a stated period which shall expire on or after December 31, 1993, or by any other governmental entity resulting in loss of possession by the Vendee for a period of 90 consecutive days (such occurrences being hereinafter called Casualty Occurrences), the Vendee shall inform the Vendor in regard thereto within 15 days after it has knowledge of such Casualty Occurrence. When the aggregate Casualty Value (as hereinafter defined in this Article 7) of all units having suffered a Casualty Occurrence (exclusive of units having suffered a Casualty Occurrence with respect to which a payment shall have been made to the Vendor pursuant to this Article 7) hereunder shall exceed \$100,000, the Vendee shall, within 30 days after it has knowledge of such event, pay to the Vendor a sum equal to the aggregate Casualty Value of such units of Equipment as of the date of such payment. The Vendee shall file, or cause to be filed, with the Vendor a certificate setting forth the Casualty Value of each such unit. So long as no event of default hereunder or event which with the lapse of time

and/or demand or notice could constitute an event of default hereunder shall have occurred and be continuing, any money paid to the Vendor pursuant to this paragraph 7.2 shall, as the Vendee shall direct in a written instrument filed with the Vendor, be applied on the next Payment Date occurring more than 180 days following the date of such payment to the Vendor, in whole or in part, to prepay, without penalty or premium, ratably in accordance with the unpaid balance of each installment, the Conditional Sale Indebtedness, or, in whole or in part, toward the cost of a unit or units of standard gauge railroad rolling stock of the type described in Annex B hereto (which may be open hopper cars or covered hopper cars) first put into service no earlier than October 2, 1978, to replace units suffering a Casualty Occurrence (provided, however, that the Vendor shall not pay more than 65.3% of the cost of any such unit or units of replacement equipment); and in the event that no direction is so received by the Vendor, such moneys shall be applied by the Vendor to the prepayment of the Conditional Sale Indebtedness as aforesaid. Any unit of replacement equipment shall meet the requirements of subparagraph (1) of paragraph 7.6 hereof. In the event of any prepayment pursuant to this Section 7.2, the Vendee shall promptly cause to be furnished to the Vendor a revised schedule of payments of principal and interest to be made, in such number of counterparts as the Vendor may request, calculated as provided in paragraph 4.4 hereof.

7.3. Casualty Value. The Casualty Value of each unit of the Equipment (other than a replacement unit) shall be deemed to be that amount which bears the same ratio to the original Purchase Price thereof (less an amount which bears the same ratio to the aggregate of all payments made by the Vendee under the provisions of subparagraph (a) of paragraph 4.3 hereof, as the original Purchase Price of such unit bears to the original aggregate Purchase Price of all the Equipment) as the unpaid Conditional Sale Indebtedness (without giving effect to any prepayments then or theretofore made pursuant to this Article 7) as of the date payment is made with respect to such Casualty Occurrence bears to the original Conditional Sale Indebtedness. The Casualty Value of each replacement unit shall be deemed to be that amount which bears the same ratio to the portion of the cost thereof paid by the Vendor as the unpaid Conditional Sale Indebtedness

(without giving effect to any prepayments then or theretofore made pursuant to this Article 8) as of the date payment is made with respect to such Casualty Occurrence bears to the unpaid Conditional Sale Indebtedness (without giving effect to any such prepayments) as of the date of acquisition by the Vendor of such replacement unit.

7.4. Obligations upon Payment of Casualty Value.

Upon payment by the Vendee to the Vendor of the Casualty Value of any unit of the Equipment having suffered a Casualty Occurrence, absolute right to the possession of, title to and property in such unit shall pass to and vest in the Vendee, without further transfer or action on the part of the Vendor, except that the Vendor, if requested by the Vendee, will execute and deliver to the Vendee, at the expense of the Vendee, an appropriate instrument confirming such passage to the Vendee of all the Vendor's right, title and interest, and the release of the Vendor's security interest, in such unit, in recordable form, in order that the Vendee may make clear upon the public records the title of the Vendee to such unit.

7.5. Marking of Replacement Equipment.

The Vendee will cause any replacement unit or units to be marked as provided in Article 10 hereof. Any and all such replacements of Equipment shall constitute accessions to the Equipment and shall be subject to all appropriate terms and conditions of this Agreement as though part of the original Equipment delivered hereunder and shall be included in the term "Equipment" as used in this Agreement; provided, however, that nothing herein shall result in the Builder having any liability or obligation with respect to any replacement unit or units not manufactured by it. Title to all such replacement units shall be free and clear of all liens and encumbrances except the liens permitted by Article 13 hereof and shall be taken initially and shall remain in the name of the Vendor subject to the provisions hereof, and the Vendee shall execute, acknowledge, deliver, file, record and deposit all such documents and do any and all such acts as may be necessary to cause such replacement units to come under and be subject to this Agreement. All such replacement units shall be guaranteed and warranted in like manner as is customary at the time for similar equipment.

7.6. Certificates and Opinions upon Replacement of Equipment. Whenever the Vendee shall file with the Vendor

a written direction to apply amounts toward the cost of any replacement unit or units, the Vendee shall file therewith:

(1) a certificate of an officer of the Vendee certifying that such replacement unit is standard gauge railroad rolling stock of the type described in Annex B hereto (and specifying whether such replacement unit is an open hopper car or a covered hopper car) first put into service no earlier than October 2, 1978, and has been marked as required by the provisions of this Article 7 and certifying, in the event such replacement unit is new equipment, the cost of such replacement unit and, in the event such replacement unit shall be equipment theretofore used in railroad service, that the cost thereof does not exceed the lesser of the fair value thereof and the original cost thereof less depreciation at a rate equal to 1/17 of such original cost for each year in service, and that such replacement equipment has a remaining useful life at least as long as that which the Equipment being replaced would have had but for the Casualty Occurrence; and

(2) an opinion of counsel for the Vendee that the Vendor has a valid and perfected first security interest in such replacement unit, free and clear from all claims, liens, security interests and other encumbrances except the rights of the Vendee under this Agreement, and that such unit has come under and become subject to this Agreement and the Assignment.

7.7. Investment of Funds Held by Vendor. So long as no event of default shall have occurred and be continuing, any money paid to the Vendor pursuant to this Article 7 shall, if the Vendee shall in writing so direct, be invested, pending its application as hereinabove provided, in such of the following as may be specified in such written direction: (i) bonds or other obligations of the United States of America which as to principal and interest constitute direct obligations of the United States of America or are issued or guaranteed by any person controlled or supervised by and acting as an instrumentality of the United States of America pursuant to authority granted by the Congress of the United States of America and for which the full faith and credit of the United States of America is pledged to provide for the payment of principal and interest,

(ii) certificates of deposit issued by a commercial bank which is a member of the Federal reserve domestic system with total deposits of at least \$1,000,000,000, and which at the time of such investment has, or whose parent company has, outstanding debt securities rated A or better by a nationally recognized rating service or (iii) commercial paper rated P-1 by NCO/Moody's Commercial Paper Division of Moody's Investors Service, Inc. or A-1 by Standard & Poor's Corp., in each case maturing in not more than one year from the date of such investment (such investments being herein called Investments). Any such obligations shall from time to time be sold and the proceeds reinvested in such Investments as the Vendee may in writing direct. Any interest received by the Vendor on any Investments shall be held by the Vendor and applied as hereinafter provided. Upon any sale or the maturity of any Investments, the proceeds thereof, plus any interest received by the Vendor thereon, up to the cost (including accrued interest) thereof, shall be held by the Vendor for application pursuant to this Article 7, and any excess shall be paid to the Vendee. If such proceeds (plus such interest) shall be less than such cost, the Vendee will promptly pay to the Vendor an amount equal to such deficiency. The Vendee will pay all expenses incurred by the Vendor in connection with the purchase and sale of Investments.

If one or more events of default shall have occurred and be continuing, all money held by the Vendor pursuant to this Article 7 (including, for this purpose, Investments) shall be applied by the Vendor as if such money were money received upon the sale of Equipment pursuant to Article 17 hereof.

7.8. Optional Prepayment. The Conditional Sale Indebtedness is prepayable as a whole (but not in part) on any date after January 15, 1979, at the option of the Vendee, upon 30 days' notice to the Vendor, at the then outstanding amount thereof, together with accrued interest thereon and a prepayment premium equal to the applicable percentage set forth below of such outstanding amount:

<u>If prepaid during the 12 months ending</u>	<u>Percentage</u>
January 15, 1980	9.3750%
January 15, 1981	8.7500
January 15, 1982	8.1250
January 15, 1983	7.5000
January 15, 1984	6.8750
January 15, 1985	6.2500
January 15, 1986	5.6250
January 15, 1987	5.0000
January 15, 1988	4.3750
January 15, 1989	3.7500
January 15, 1990	3.1250
January 15, 1991	2.5000
January 15, 1992	1.8750
January 15, 1993	1.2500
January 15, 1994	0.6250
January 15, 1995 and thereafter	0.0000

provided, however, that prior to January 15, 1989, no such prepayment shall be made as part of or in anticipation of any refunding operation involving directly or indirectly the borrowing of money or the sale of any preferred stock by any person at an effective interest or dividend cost (calculated in accordance with accepted financial practice) equal to or less than 9.375% per annum or on terms which provide for an average maturity shorter than the average maturity of the Conditional Sale Indebtedness or which permit optional prepayment or voluntary redemption on terms more favorable than the provisions hereof relating to optional prepayment (average maturities being calculated in accordance with accepted financial practice), and the notice of the election to exercise such option to prepay shall be accompanied by a certificate of an officer of the Vendee stating that such prepayment will comply with this proviso.

ARTICLE 8

INSURANCE PROCEEDS AND CONDEMNATION PAYMENTS

8.1. Insurance To Be Maintained. The Vendee will at all times at its own expense cause to be carried and maintained property and public liability insurance with respect to the units of the Equipment unless the Vendee has determined in good faith that it may, in the exercise of sound business discretion, self insure with respect thereto; provided, however, that if, in the Vendor's reasonable opinion, the Vendee's financial condition has materially and adversely changed from its condition as of the date hereof such that such property insurance and/or public liability insurance is required to assure the Vendee's ability to meet its obligations under this Agreement, the Vendor shall so notify the Vendee and the Vendee shall promptly arrange for such insurance to be carried and maintained. The Vendee will carry such insurance in such amounts, for such risks, with such deductibles and with such insurance companies as are satisfactory to the Vendor and in any event consistent with prudent industry practice and at least comparable in amounts and against risks customarily insured against by the Vendee in respect of equipment owned or leased by it similar in nature to the units of Equipment. The proceeds of any such insurance shall be payable to the Vendor and the Vendee, as their respective interests may appear, so long as the Conditional Sale Indebtedness shall not have been paid in full.

8.2. Application of Proceeds. If the Vendor shall receive any insurance proceeds or condemnation payments in respect of units of the Equipment suffering a Casualty Occurrence, the Vendor shall promptly pay such insurance proceeds or condemnation payments to the Vendee; provided, however, that no default or event of default shall have occurred and be continuing hereunder and the Vendee shall have previously made payment of the Casualty Value of such units, to the Vendor. All insurance proceeds received by the Vendor in respect of any unit of Equipment not suffering a Casualty Occurrence shall be paid to the

Vendee upon proof satisfactory to the Vendor that any damage to such unit in respect of which such proceeds were paid has been fully repaired.

ARTICLE 9

REPORTS AND INSPECTIONS

On or before March 31 in each year, commencing with the year 1979, the Vendee shall cause to be furnished to the Vendor an accurate statement signed by an officer of the Vendee (a) setting forth as at the preceding December 31 the amount, description and numbers of all units of the Equipment that have suffered a Casualty Occurrence during the preceding 12 months (or since the date of this Agreement in the case of the first such statement) or that have been withdrawn from use pending repairs (other than running repairs) and such other information regarding the condition and state of repair of the Equipment as the Vendor may reasonably request and (b) stating that, in the case of all Equipment repaired or repainted during the period covered by such statement, the numbers and markings required by Article 10 hereof have been preserved or replaced. The Vendor shall have the right, by its agents, to inspect the Equipment and the Vendee's records with respect thereto at such reasonable times as the Vendor may request during the term of this Agreement.

ARTICLE 10

MARKING OF EQUIPMENT

10.1. Marking of Equipment. The Vendee will cause each unit of the Equipment to be kept numbered with the identification number set forth in Annex B hereto, or in the case of Equipment not there listed such identification number as shall be set forth in any amendment or supplement hereto extending this Agreement to cover such Equipment, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each unit, in letters not less than one inch in height, the words "Ownership Subject to a Security Agreement Filed under the Interstate Commerce Act, Section 20c" or other appropriate words designated by the Vendor, with appropriate changes thereof and additions thereto as from time to time

may be required by law in order to protect the Vendor's security interest in the Equipment and its rights under this Agreement. The Vendee will not place any such unit in operation or exercise any control or dominion over the same until such words shall have been so marked on both sides thereof and will replace promptly any such words which may be removed, defaced or destroyed. The Vendee will not change the identification number of any unit of the Equipment unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Vendor and filed, recorded and deposited by the Vendee in all public offices where this Agreement shall have been filed, recorded and deposited and (ii) the Vendee shall have furnished the Vendor an opinion of counsel to the effect that such statement has been so filed, recorded and deposited, such filing, recordation and deposit will protect the Vendor's interests in such units and no filing, recording, deposit or giving of notice with or to any other government or agency thereof is necessary to protect the interests of the Vendor in such units. The Equipment may be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates.

10.2. No Designations of Ownership. Except as provided in paragraph 10.1 hereof, the Vendee will not allow the name of any person to be placed on any unit of the Equipment as a designation that might be interpreted as a claim of ownership.

ARTICLE 11

COMPLIANCE WITH LAWS AND RULES

During the term of this Agreement, the Vendee will at all times comply, and will cause every lessee or user of the Equipment to comply, in all respects (including, without limitation, with respect to the use, maintenance and operation of the Equipment) with all laws of the jurisdictions in which its or such lessee's or user's operations involving the Equipment may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Equipment, to

the extent that such laws and rules affect the title, operation or use of the Equipment, and in the event that such laws or rules require any alteration, replacement or addition of or to any part on any unit of the Equipment, the Vendee will conform therewith at no expense to the Vendor; provided, however, that the Vendee may at its own expense, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Vendor, adversely affect the property or rights of the Vendor under this Agreement.

ARTICLE 12

POSSESSION AND USE

12.1. Possession and Use of Equipment by Vendee. The Vendee, so long as an event of default shall not have occurred and be continuing under this Agreement, shall be entitled, from and after delivery of the Equipment by the Builder to the Vendee, to the possession of the Equipment and the use thereof, but only upon and subject to all the terms and conditions of this Agreement. The Vendee will not assign or lease any of the Equipment for regular use outside the United States of America.

12.2. Lease Permitted; Lease Subordinate. The Vendee intends to lease the Equipment to the Lessee, and the rights of the Lessee and its permitted assigns under the Lease shall be subordinate and junior in rank to the rights, and shall be subject to the remedies, of the Vendor under this Agreement.

ARTICLE 13

PROHIBITION AGAINST LIENS

13.1. Vendee to Discharge Liens. The Vendee, at its own expense, will promptly pay or discharge any and all sums claimed by any person which, if unpaid, might become a lien, charge, security interest or other encumbrance on or with respect to the Equipment, or any unit thereof, including any accession thereto, and will promptly discharge any such lien, charge, security interest or other encumbrance which arises, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be

contested in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect the security interest of the Vendor in or to the Equipment or otherwise under this Agreement. Any amounts paid by the Vendor in discharge of any lien, charge, security interest or other encumbrance on or with respect to the Equipment shall be secured by and under this Agreement.

13.2. No Breach for Certain Liens. The covenants set forth in paragraph 13.1 hereof will not be deemed breached by reason of liens for taxes, assessments or governmental charges or levies, in each case not due and delinquent, or undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of business and, in each case, not delinquent.

ARTICLE 14

INDEMNITIES AND WARRANTIES

14.1. Indemnification. The Vendee shall pay, and shall protect, indemnify and hold the Vendor and any assignee hereof, and their respective successors, assigns, agents and servants (hereinafter called Indemnified Persons), harmless from and against any and all losses, damages, injuries, causes of action, suits, penalties, claims, demands or judgments of any nature whatsoever which may be imposed on, incurred by or asserted against any Indemnified Person (including any and all liabilities, obligations, damages, costs, disbursements, expenses [including without limitation attorneys' fees and expenses of any Indemnified Person] relating thereto) in any way relating to or arising or alleged to arise out of this Agreement or the Equipment, including without limitation those in any way relating to or arising or alleged to arise out of (i) the manufacture, construction, purchase, acceptance, rejection, ownership, delivery, nondelivery, lease, sublease, possession, use, operation, condition, sale, return or other disposition of any unit of Equipment or portion thereof, (ii) any latent or other defects whether or not discoverable by the Vendee or the Vendor, (iii) any claim for patent, trademark or copyright infringement, (iv) any claim based on strict liability in tort, (v) any injury to or the death of any person or any damage to or loss of property on or near the

Equipment or in any manner growing out of or concerned with, or alleged to grow out of or be connected with, the ownership, use, replacement, adaptation or maintenance of the Equipment or of any other equipment in connection with the Equipment (whether owned or under the control of the Vendee or any other person) or resulting or alleged to result from the condition of any thereof, (vi) any violation, or alleged violation, of any provision of this Agreement or of any agreement, law, rule, regulation, ordinance or restriction, affecting or applicable to the Equipment or the leasing, ownership, use, replacement, adaptation or maintenance thereof, or (vii) any claim arising out of the Vendor's retention of a security interest under this Agreement; except that the Vendee shall not be liable to the Builder in respect of any of the foregoing matters to the extent liability in respect thereof arises from an act or omission of the Builder or is covered by the Builder's patent indemnification referred to in paragraph 14.4 hereof. The Vendee shall be obligated under this Article 14 irrespective of whether any Indemnified Person shall also be indemnified with respect to the same matter under any other agreement by any other person, and the Indemnified Person seeking to enforce the indemnification may proceed directly against the Vendee under this Article 14 without first resorting to any such other rights of indemnification. In case any action, suit or proceeding is brought against any Indemnified Person in connection with any claim indemnified against hereunder, the Vendee may and, upon such Indemnified Person's request, will at the Vendee's expense resist and defend such action, suit or proceeding, or cause the same to be resisted or defended by counsel selected by the Vendee and approved by such Indemnified Person and, in the event of any failure by the Vendee to do so, the Vendee shall pay all costs and expenses (including without limitation attorneys' fees and expenses) incurred by such Indemnified Person in connection with such action, suit or proceeding. In the event the Vendee is required to make any payment under this Article 14, the Vendee shall pay such Indemnified Person an amount which, after deduction of all taxes required to be paid by such Indemnified Person in respect of the receipt thereof under the laws of the United States of America or of any political subdivision thereof (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of the expense indemnified against, and of any other such taxes as determined in the sole discretion of the Indemnified Person), shall be equal to the amount of such payment. The Vendor and the

Vendee agree to give each other promptly upon obtaining knowledge thereof written notice of any claim or liability hereby indemnified against. Upon the payment in full of any indemnities as contained in this Article 14 by the Vendee, and provided that no event of default (or other event which with lapse of time or notice or both would constitute such an event of default) shall have occurred and be continuing, the Vendee shall be subrogated to any right of such Indemnified Person in respect of the matter against which indemnity has been given.

14.2. Survival; No Subrogation. The indemnities contained in this Article 14 shall survive the expiration or termination of this Agreement with respect to all events, facts, conditions or other circumstances occurring or existing prior to such expiration or termination and are expressly made for the benefit of, and shall be enforceable by, any Indemnified Person. None of the indemnities in this Article 14 shall be deemed to create any rights of subrogation in any insurer or third party against the Vendee therefor, from or under any Indemnified Person, whether because of any claim paid or defense provided for the benefit thereof or otherwise.

14.3. Vendee Not Released if Equipment Damaged or Lost. The Vendee will bear the responsibility for, and risk of, and shall not be released from its obligations hereunder in the event of, any damage to or the destruction or loss of any unit of or all the Equipment.

14.4. Warranties of Builder; Patent Indemnities. The agreement of the parties relating to the Builder's warranties of material and workmanship and the agreement of the parties relating to patent indemnification are set forth in Items 3 and 4 of Annex A hereto.

ARTICLE 15

ASSIGNMENTS

15.1. Assignment of Vendee. The Vendee will not

(a) sell, lease, assign or transfer the right to possession of any unit of the Equipment or (b) sell, lease, assign, transfer or otherwise dispose of any of its rights under this Agreement, except as provided in Article 12 hereof or with the written consent of the Vendor. Every such sale, lease, assignment, transfer or other disposal shall be expressly subject to all rights and remedies of the Vendor under this Agreement (including, without limitation, the rights and remedies set forth in Article 16 hereof) in respect of the units of Equipment upon the occurrence of an event of default hereunder. As used in this Article 15, the term "lease" shall include the Lease.

15.2. Assignment by Vendor. All or any of the rights, benefits and advantages of the Vendor under this Agreement, including the right to receive the payments herein provided to be made by the Vendee, may be assigned by the Vendor and reassigned by any assignee at any time or from time to time. No such assignment shall subject any assignee to, or relieve the Builder from, any of the obligations of the Builder to construct and deliver the Equipment in accordance herewith or to respond to its warranties and indemnities referred to in Article 14 hereof, or relieve the Vendee of its obligations to the Builder contained in Articles 2, 3, 4, 6 and 14 hereof, Annex A hereto and this Article 15, or any other obligation which, according to its terms or context, is intended to survive an assignment.

15.3. Notice of Assignment by Vendor. Upon any such assignment, either the assignor or the assignee shall give written notice to the Vendee, together with a counterpart or copy of such assignment, stating the identity and post office address of the assignee, and such assignee shall, by virtue of such assignment, acquire all the assignor's right, title and interest in and to the Equipment and this Agreement, or in and to a portion thereof, as the case may be, subject only to such reservations as may be contained in such assignment. From and after the receipt by the Vendee of the notification of any such assignment, all payments thereafter to be made by the Vendee under this Agreement shall, to the extent so assigned, be made to the assignee in such manner as it may direct.

15.4. No Set-Off Against Conditional Sale Indebtedness Upon Assignment. The Vendee recognizes that it is the custom of railroad equipment manufacturers to assign

conditional sale agreements and understands that the assignment of this Agreement, or of some of or all the rights of the Vendor hereunder, is contemplated. The Vendee expressly represents for the purpose of assurance to any person considering the acquisition of this Agreement or of all or any of the rights of the Vendor hereunder, and for the purpose of inducing such acquisition, that the rights of the assignee to the entire unpaid Conditional Sale Indebtedness in respect of the Purchase Price of the Equipment or such part thereof as may be assigned together with interest thereon, as well as any other rights hereunder which may be so assigned, shall not be subject to any defense, set-off, counterclaim or recoupment whatsoever arising out of any breach of any obligation of the Builder with respect to the Equipment or the manufacture, construction, delivery or warranty thereof, or with respect to any indemnity herein contained, nor subject to any defense, set-off, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Vendee by the Builder. Any and all such obligations, howsoever arising, shall be and remain enforceable by the Vendee against and only against the Builder.

15.5. Settlement after Assignment. The Vendee will (a) in connection with each settlement for the Equipment subsequent to such assignment deliver to the assignee, at least five business days prior to each Closing Date, all documents required by the terms of such assignment to be delivered to such assignee in connection with such settlement, in such number of counterparts or copies as may reasonably be requested, except for any opinion of counsel for such assignee, and (b) furnish to such assignee such number of counterparts of any other certificate or document required by the Vendor as may reasonably be requested.

If this Agreement shall have been assigned by the Builder and if the assignee shall not make payment to the Builder with respect to units of the Equipment as provided in the instrument making such assignment, the Builder will promptly notify the Vendee of such event and, if such amount shall not have been previously paid by such assignee, the Vendee will, not later than 90 days after the date such payment was due, pay or cause to be paid to the Builder the aggregate unpaid Purchase Price of such units of the Equipment, together with interest from the day such payment was due to the date of payment by the Vendee at the highest

prime rate of interest charged by any of the four New York City banks having the largest total assets on the date such payment was due.

ARTICLE 16

DEFAULTS

16.1. Events of Default; Declaration of Default; Acceleration of Conditional Sale Indebtedness. In the event that any one or more of the following events of default shall occur and be continuing:

(a) the Vendee shall fail to pay in full any sum payable by the Vendee when payment thereof shall be due hereunder and such default shall continue for ten days after the date such payment is due and payable; or

(b) the Vendee shall, for more than 30 days after the Vendor shall have demanded in writing performance thereof, fail or refuse to comply with any covenant, agreement, term or provision of this Agreement or of the Finance Agreement on its part to be kept and performed or to make provision satisfactory to the Vendor for such compliance; or

(c) a decree or order shall have been entered by a court of competent jurisdiction adjudging the Vendee a bankrupt or insolvent or subject to the insolvency provisions of the Bankruptcy Act of the United States of America or the bankruptcy, insolvency or similar legislation of any other jurisdiction or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Vendee under the Bankruptcy Act of the United States of America or any other law of the United States of America or any state or territory thereof or of any other jurisdiction relating to bankruptcy or insolvency or appointing a receiver or decreeing or ordering the winding-up or liquidation of the affairs of the Vendee and any such decree or order shall remain in force undischarged and unstayed for a period of 60 days;

(d) the Vendee shall institute proceedings to be adjudicated a bankrupt or insolvent or shall consent to

the institution of bankruptcy or insolvency proceedings against it or shall file a petition, answer or consent seeking reorganization or relief under the Bankruptcy Act of the United States of America or any other law of the United States of America or any state or territory thereof or under the legislation of any other jurisdiction relating to bankruptcy or insolvency or shall consent to the filing of any such petition or shall consent to the appointment of a receiver or shall make an assignment for the benefit of creditors or shall admit in writing its inability to pay its debts generally as they become due or shall commit any act of bankruptcy, or action shall be taken by the Vendee in furtherance of any of the aforesaid purposes; or

(e) the Vendee shall make or permit any unauthorized assignment or transfer of this Agreement or any interest herein or the right to possession of any unit of the Equipment; or

(f) the Vendee shall default in any payment of any indebtedness for borrowed money or evidenced by conditional sale agreement, equipment trust agreement, note, debenture, bond or other security or in any payment of rentals or other obligations under any lease or sublease agreement (all such obligations being hereinafter called Other Indebtedness), or shall default in the performance of any other agreement, term or condition contained in any agreement relating to any Other Indebtedness the effect of which is to permit such Other Indebtedness to become accelerated or due prior to the stated maturity or scheduled date for the payment thereof, if the aggregate principal amount of all Other Indebtedness in respect of which the Vendee is so in default exceeds \$100,000;

then at any time after the occurrence of such an event of default the Vendor may, upon written notice to the Vendee and upon compliance with any mandatory legal requirements then in force and applicable to such action by the Vendor, declare (hereinafter called a Declaration of Default) the entire unpaid Conditional Sale Indebtedness, together with the interest thereon then accrued and unpaid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of the Conditional Sale Indebtedness and such interest shall bear interest from the date of such Declaration of Default at the Penalty Rate to

the extent legally enforceable. Upon a Declaration of Default, the Vendor shall be entitled to recover judgment for the entire unpaid balance of the Conditional Sale Indebtedness so payable, with interest as aforesaid, and to collect such judgment out of any property of the Vendee, wherever situated. The Vendee shall promptly notify the Vendor of any event of which it has knowledge which constituted, constitutes, or with the giving of notice and/or lapse of time could constitute, an event of default under this Agreement.

16.2. Waiver of Defaults. The Vendor may, at its election, waive any such event of default and its consequences and rescind and annul any Declaration of Default by notice to the Vendee in writing to that effect. Notwithstanding the provisions of this paragraph 16.2, it is expressly understood and agreed by the Vendee that time is of the essence of this Agreement and that no such waiver, rescission or annulment shall extend to or affect any other or subsequent default or impair any rights or remedies consequent thereon.

ARTICLE 17

REMEDIES

17.1. Vendor May Take Possession of Equipment. At any time during the continuance of a Declaration of Default, the Vendor may, and upon such further notice, if any, as may be required for compliance with any mandatory legal requirements then in force and applicable to the action to be taken by the Vendor, take or cause to be taken, by its agent or agents, immediate possession of the Equipment, or one or more of the units thereof, without liability to return to the Vendee any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Article 17 expressly provided, and may remove the same from possession and use of the Vendee, the Lessee or any other person and for such purpose may enter upon the premises of the Vendee or the Lessee or any other premises where the Equipment may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of the Vendee or the Lessee, subject to all mandatory requirements of due process of law.

17.2. Assembling of Equipment for Vendor. In case

the Vendor shall demand possession of the Equipment pursuant to this Agreement and shall designate a reasonable point or points for the delivery of the Equipment to the Vendor, the Vendee shall at its own expense and risk:

(a) forthwith and in the usual manner (including, but not by way of limitation, giving prompt telegraphic and written notice to the Association of American Railroads and all railroads to which any unit or units have been interchanged or which may have possession thereof to return the unit or units) place such units upon such storage tracks as the Vendor reasonably may designate;

(b) cause such units to be stored on such tracks without charge for insurance, rent or storage until all such units of Equipment have been sold, leased or otherwise disposed of by the Vendor; and

(c) cause the same to be transported to any reasonable place, as directed by the Vendor.

During any storage period, the Vendee shall, at its own cost and expense, maintain and keep each such unit in good order and repair and permit the inspection of the Equipment by the Vendor, the Vendor's representatives and prospective purchasers and users. This agreement to deliver the Equipment and furnish facilities as hereinbefore provided is of the essence of the agreement between the parties, and upon application to any court of equity having jurisdiction in the premises, the Vendor shall be entitled to a decree requiring specific performance hereof. The Vendee hereby expressly waives any and all claims against the Vendor and its agent or agents for damages of whatever nature in connection with any retaking of any unit of the Equipment in any reasonable manner.

17.3. Vendor May Dispose of or Retain Equipment.

At any time during the continuance of a Declaration of Default, the Vendor (after retaking possession of the Equipment as hereinbefore in this Article 17 provided) may, at its election, retain the Equipment in satisfaction of the entire Conditional Sale Indebtedness and make such disposition thereof as the Vendor shall deem fit. Written notice of the Vendor's election to retain the Equipment shall be given to the Vendee by telegram or registered mail, addressed as provided in Article 23 hereof, and to any other persons to whom the law may require notice, within 30 days after such

Declaration of Default. In the event that the Vendor should elect to retain the Equipment and no objection is made thereto within the 30-day period described in the second proviso below, all the Vendee's rights in the Equipment shall thereupon terminate and all payments made by the Vendee may be retained by the Vendor as compensation for the use of the Equipment; provided, however, that if the Vendee, before the expiration of the 30-day period described in the proviso below, should pay or cause to be paid to the Vendor the total unpaid balance of the Conditional Sale Indebtedness, together with interest thereon accrued and unpaid and all other payments (including premium in an amount equal to the premium which would have been payable had the Vendee elected to then prepay the Conditional Sale Indebtedness pursuant to paragraph 7.8 hereof) due under this Agreement, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee; provided, further, that if the Vendee or any other person notified under the terms of this paragraph 17.3 object in writing to the Vendor within 30 days from the receipt of notice of the Vendor's election to retain the Equipment, then the Vendor may not so retain the Equipment, but shall sell, lease or otherwise dispose of it or continue to hold it pending sale, lease or other disposition as hereinafter provided or as may otherwise be permitted by law. If the Vendor shall not have given notice to retain as hereinabove provided or notice of intention to dispose of the Equipment in any other manner, it shall be deemed to have elected to sell the Equipment in accordance with the provisions of this Article 17.

17.4. Vendor May Sell Equipment; Vendee's Right of Redemption. At any time during the continuance of a Declaration of Default, the Vendor, with or without retaking possession thereof, at its election and upon reasonable notice to the Vendee and any other persons to whom the law may require notice of the time and place, may sell the Equipment, or one or more of the units thereof, free from any and all claims of the Vendee, the Lessee or any other party claiming from, through or under the Vendee or the Lessee, at law or in equity, at public or private sale and with or without advertisement as the Vendor may determine; provided, however, that if, prior to such sale and prior to the making of a contract for such sale, the Vendee should tender full payment of the total unpaid balance of the Conditional Sale Indebtedness, together with interest thereon accrued and unpaid and all other payments (including premium in an amount equal to the premium which would have been payable had the Vendee elected to then prepay the Conditional Sale Indebtedness pursuant to paragraph 7.8 hereof) due under this Agreement as well as expenses of the Vendor in retaking possession

of, removing, storing, holding and preparing the Equipment for, and otherwise arranging for, the sale and the Vendor's reasonable attorneys' fees, then upon receipt of such payment, expenses and fees by the Vendor, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee. The proceeds of such sale or other disposition, less the attorneys' fees and any other expenses incurred by the Vendor in retaking possession of, removing, storing, holding, preparing for sale and selling or otherwise disposing of the Equipment, shall be credited on the amount due to the Vendor under the provisions of this Agreement.

17.5. Sale of Equipment by Vendor. Any sale hereunder may be held or conducted at New York, New York, at such time or times as the Vendor may specify (unless the Vendor shall specify a different place or places, in which case the sale shall be held at such place or places as the Vendor may specify), in one lot and as an entirety or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Vendor may determine, so long as such sale shall be in a commercially reasonable manner. The Vendor or the Vendee may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale. The Vendee shall be given written notice of such sale not less than ten days prior thereto, by telegram or registered mail addressed as provided in Article 23 hereof. In addition, if such sale shall be a private sale (which shall be deemed to mean only a sale where an advertisement for bids has not been published in a newspaper of general circulation or a sale where less than 40 offerees have been solicited in writing to submit bids), it shall be subject to the rights of the Vendee to purchase or provide a purchaser, within ten days after notice of the proposed sale price, at the same price offered by the intending purchaser or a better price. In the event that the Vendor shall be the purchaser of the Equipment, it shall not be accountable to the Vendee (except to the extent of surplus money received as hereinafter provided in this Article 17), and in payment of the purchase price therefor the Vendor shall be entitled to have credited on account thereof all or any part of sums due to the Vendor hereunder. Any sale consistent with the provisions of this paragraph 17.5 shall be deemed to have been made in a commercially reasonable manner.

17.6. Effect of Remedies and Powers and Exercise Thereof. Each and every power and remedy hereby specifically given to the Vendor shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity not inconsistent herewith, and each and every power and remedy may be exercised from time

to time and simultaneously and as often and in such order as may be deemed expedient by the Vendor. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Vendor in the exercise of any such power, or remedy and no renewal or extension of any payments due hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein. Any extension of time for payment hereunder or other indulgence duly granted to the Vendee shall not otherwise alter or affect the Vendor's rights or the Vendee's obligations hereunder. The Vendor's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the Vendee's obligations or the Vendor's rights hereunder with respect to any subsequent payments or default therein.

17.7. Deficiencies. If, after applying all sums of money realized by the Vendor under the remedies herein provided, there shall remain any amount due to it under the provisions of this Agreement, the Vendee shall pay the amount of such deficiency to the Vendor upon demand, together with interest thereon from the date of such demand to the date of payment at the Penalty Rate, and, if the Vendee shall fail to pay such deficiency, the Vendor may bring suit therefor and shall be entitled to recover a judgment therefor against the Vendee. If, after applying as aforesaid all sums realized by the Vendor, there shall remain a surplus in the possession of the Vendor, such surplus shall be paid to the Vendee.

17.8. Expenses. The Vendee will pay all reasonable fees, costs and expenses, including attorneys' fees, incurred by the Vendor in enforcing its remedies under the terms of this Agreement. In the event that the Vendor shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Vendor may recover reasonable expenses, including reasonable attorneys' fees, and the amount thereof shall be included in such judgment.

17.9. Remedies Subject to Mandatory Legal Requirements. The foregoing provisions of this Article 17 are subject in all respects to all mandatory legal requirements at the time in force and applicable thereto.

ARTICLE 18

APPLICABLE STATE LAWS

18.1. Conflict with State Laws. Any provision of this Agreement prohibited by any applicable law of any jurisdiction (which is not overridden by applicable federal law) shall as to such jurisdiction be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any such applicable law may be waived, they are hereby waived by the Vendee to the full extent permitted by law, it being the intention of the parties hereto that this Agreement shall be deemed to be a conditional sale and enforced as such.

18.2. Waiver of Notices. Except as otherwise provided in this Agreement, the Vendee, to the full extent permitted by law, hereby waives all statutory or other legal requirements for any notice of any kind, notice of intention to take possession of or to sell or lease the Equipment, or any one or more units thereof, and any other requirements as to the time, place and terms of the sale or lease thereof, any other requirements with respect to the enforcement of the Vendor's rights and any and all rights of redemption.

ARTICLE 19

RECORDING

The Vendee will cause this Agreement, any assignments hereof and any amendments or supplements hereto or thereto to be filed and recorded in accordance with Section 20c of the Interstate Commerce Act; and the Vendee will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, deposit and record any and all further instruments required by law or reasonably requested by the Vendor for the purpose of proper protection, to the satisfaction of counsel for the Vendor, of its title to the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement; provided, however, that the Vendee shall not be required to take any such action in respect of any jurisdiction outside the United States of America if (1) the Vendee deems such action to be unduly burdensome, (2) after giving effect to the failure to take such action, the Vendee has taken all action required by law to protect the security interest of

the Vendor in units of the Equipment having a fair value of not less than 85% of the aggregate fair value of all the units of Equipment then subject to this Agreement and (3) any unit of Equipment at any time located in any such jurisdiction shall have been marked with the markings specified in Article 10 hereof.

The Vendee will promptly furnish to the Vendor certificates or other evidence of such filing, registering, depositing and recording satisfactory to the Vendor.

ARTICLE 20

PAYMENT OF EXPENSES

The Vendee will pay all reasonable costs and expenses (other than the fees and expenses of counsel for the Builder) incident to this Agreement and the first assignment of this Agreement (including the fees and expenses of an agent, if the first assignee is an agent), and any instrument supplemental or related hereto or thereto, including all fees, expenses and costs referred to in Paragraph 7 of the Finance Agreement.

ARTICLE 21

REPRESENTATIONS AND WARRANTIES OF BUILDER

The Builder hereby represents and warrants to the Vendee, its successors and assigns, that this Agreement is duly authorized by it and lawfully executed and delivered by it for a valid consideration and that, assuming due authorization, execution and delivery by the Vendee, this Agreement is, insofar as the Builder is concerned, a legal, valid and existing agreement binding upon and enforceable against the Builder in accordance with its terms.

ARTICLE 22

ARTICLE AND PARAGRAPH HEADINGS; EFFECT AND MODIFICATION OF AGREEMENT

22.1. Article and Paragraph Headings for Convenience Only. All article and paragraph headings are inserted

for convenience only and shall not affect any construction or interpretation of this Agreement.

22.2 Effect and Modification of Agreement.

Except for the Finance Agreement, this Agreement, including the Annexes hereto, exclusively and completely states the rights of the Vendor and the Vendee with respect to the purchase of the Equipment and supersedes all other agreements, oral or written, with respect to the purchase of the Equipment. No variation or modification of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized representatives of the Vendor and the Vendee.

ARTICLE 23

NOTICE

Any notice hereunder to any of the parties designated below shall be deemed to be properly served if delivered or mailed to it by first class mail, postage prepaid, at its chief place of business at the following specified addresses:

(a) to the Vendee, at 200 South Michigan Avenue, Chicago, Illinois 60604, Attention of Vice President, Finance and Treasurer,

(b) to the Builder, at the address specified in Item 1 of Annex A hereto,

(c) to any assignee of the Vendor, or of the Vendee, at such address as may have been furnished in writing to the Vendee, or the Vendor, as the case may be, by such assignee,

or at such other address as may have been furnished in writing by such party to the other parties to this Agreement.

ARTICLE 24

LAW GOVERNING

The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the

State of Illinois; provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act, such additional rights, if any, arising out of the filing, recording or deposit hereof and of any assignment hereof as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited or in which any unit of Equipment shall be located, and such rights, if any, arising out of the marking of the Equipment.

ARTICLE 25

EXECUTION

This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. Although this Agreement is dated, for convenience, as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

IN WITNESS WHEREOF, the parties hereto have executed or caused this instrument to be executed all as of the date first above written.

PULLMAN LEASING COMPANY

by

O. L. Lundy
Authorized Officer
VICE PRESIDENT

[Corporate Seal]

Attest:

L. C. Boustead
~~Authorized Officer~~
Assistant Secretary

PULLMAN INCORPORATED (Pullman Standard Division),

by

E. J. Thompson
Vice President

[Corporate Seal]

Attest:

J. F. Reigel
Assistant Secretary

STATE OF ILLINOIS,)
) ss.:
 COUNTY OF COOK,)

On this *17th* day of October 1978, before me personally appeared *O.R. Pandy*, to me personally known, who, being by me duly sworn, says that he is Vice President of PULLMAN LEASING COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Patricia J. Baumgardner
 Notary Public

[Notarial Seal]

My Commission expires *6/23/80*

STATE OF ILLINOIS,)
) ss.:
 COUNTY OF COOK,)

On this *17th* day of October 1978, before me personally appeared *E. J. Ahnquist*, to me personally known, who, being by me duly sworn, says that he is Vice President of PULLMAN INCORPORATED (Pullman Standard Division), that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Christine Schier
 Notary Public

[Notarial Seal]

My Commission expires *9/3/79*

SCHEDULE I

Allocation Schedule of Each \$1,000,000 of
 Conditional Sale Indebtedness Payable in (i) One
 Interim Payment of Interest Only on January 15, 1979,
 (ii) 17 Annual Installments of Principal
 Commencing January 15, 1980,
 and (iii) 34 Semiannual Installments of Interest
 Commencing July 15, 1979

<u>Payment No.</u>	<u>Total Payment</u>	<u>Interest Payment</u>	<u>Principal Recovery</u>	<u>Ending Principal</u>
(1/15/79)	\$ *	\$ *	\$ -0-	\$1,000,000
1 (7/15/79)	46,875.00	46,875.00	-0-	1,000,000
2 (1/15/80)	96,875.00	46,875.00	50,000	950,000
3 (7/15/80)	44,531.25	44,531.25	-0-	950,000
4 (1/15/81)	94,531.25	44,531.25	50,000	900,000
5 (7/15/81)	42,187.50	42,187.50	-0-	900,000
6 (1/15/82)	92,187.50	42,187.50	50,000	850,000
7 (7/15/82)	39,843.75	39,843.75	-0-	850,000
8 (1/15/83)	89,843.75	39,843.75	50,000	800,000
9 (7/15/83)	37,500.00	37,500.00	-0-	800,000
10 (1/15/84)	87,500.00	37,500.00	50,000	750,000
11 (7/15/84)	35,156.25	35,156.25	-0-	750,000
12 (1/15/85)	85,156.25	35,156.25	50,000	700,000
13 (7/15/85)	32,812.50	32,812.50	-0-	700,000
14 (1/15/86)	82,812.50	32,812.50	50,000	650,000
15 (7/15/86)	30,468.75	30,468.75	-0-	650,000
16 (1/15/87)	80,468.75	30,468.75	50,000	600,000
17 (7/15/87)	28,125.00	28,125.00	-0-	600,000
18 (1/15/88)	78,125.00	28,125.00	50,000	550,000
19 (7/15/88)	25,781.25	25,781.25	-0-	550,000
20 (1/15/89)	75,781.25	25,781.25	50,000	500,000
21 (7/15/89)	23,437.50	23,437.50	-0-	500,000
22 (1/15/90)	93,437.50	23,437.50	70,000	430,000
23 (7/15/90)	20,156.25	20,156.25	-0-	430,000
24 (1/15/91)	90,156.25	20,156.25	70,000	360,000
25 (7/15/91)	16,875.00	16,875.00	-0-	360,000
26 (1/15/92)	86,875.00	16,875.00	70,000	290,000
27 (7/15/92)	13,593.75	13,593.75	-0-	290,000
28 (1/15/93)	83,593.75	13,593.75	70,000	220,000
29 (7/15/93)	10,312.50	10,312.50	-0-	220,000
30 (1/15/94)	80,312.50	10,312.50	70,000	150,000
31 (7/15/94)	7,031.25	7,031.25	-0-	150,000
32 (1/15/95)	77,031.25	7,031.25	70,000	80,000
33 (7/15/95)	3,750.00	3,750.00	-0-	80,000
34 (1/15/96)	83,750.00	3,750.00	80,000	-0-

* Interest only on the Conditional Sale Indebtedness shall be paid to the extent accrued on January 15, 1979.

Annex A
to
Conditional Sale Agreement

- Item 1: Pullman Incorporated (Pullman Standard Division),
200 South Michigan Avenue, Chicago, Illinois 60604.
- Item 2: The Equipment shall be settled for in not more than
four Groups.
- Item 3: The Builder warrants that the Equipment will be
built in accordance with the Specifications and the
standards and requirements set forth in Article 2
of the Conditional Sale Agreement to which this
Annex is attached (hereinafter called the Agree-
ment) and warrants the Equipment will be free from
defects in material (except as to specialties
incorporated therein and workmanship with respect
thereto specified by the Vendee and not manufactured
by the Builder) and workmanship under normal use and
service. The Builder's liability under this Item 3
is limited to making good at its plant any part or
parts of any unit of Equipment which shall, within
one year after the delivery of such unit of Equipment
to the Vendee, be returned to the Builder with
transportation charges prepaid and which examination
by the Builder shall disclose to its satisfaction to
have been thus defective. The foregoing warranty is
expressly in lieu of all other warranties, expressed
or implied, including any implied warranty of
merchantability or fitness for a particular purpose,
and of all other obligations or liabilities on the
part of the Builder, except for its obligations under
Articles 2, 3, 4, 14, 15 and 21 of the Agreement,
and the Builder neither assumes nor authorizes any
person to assume for it any other liability in
connection with the construction and delivery of the
Equipment, except for the patent indemnification
included in Item 4 hereof and as aforesaid.
The Builder further agrees with the Vendee that
neither the inspection as provided in Article 3
of the Agreement, nor any examination, nor the
acceptance of any units of the Equipment as pro-
vided in said Article 3 shall be deemed a waiver
or a modification by the Vendee of any of its
rights under this Item 3.

Item 4: Except in cases of designs, processes or combinations specified by the Vendee and not manufactured by the Builder and in cases of designs, systems, processes, formulae or combinations specified by the Vendee and not developed or purported to be developed by the Builder, the Builder agrees to indemnify, protect and hold harmless the Vendee from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Vendee, its assigns or the users of the Equipment, because of the use in or about the construction or operation of any of the Equipment of any design, system, process, formula, combination, article or material which infringes or is claimed to infringe on any patent or other right. The Vendee likewise will indemnify, protect and hold harmless the Builder, from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Builder, because of the use in or about the construction or operation of the Equipment, or any unit thereof, of any design, system, process, formula or combination specified by the Vendee and not developed or purported to be developed by the Builder, or article or material specified by the Vendee and not manufactured by the Builder, which infringes or is claimed to infringe on any patent or other right. The Vendee will give prompt notice to the Builder of any claim known to it, from which liability may be charged against the Builder hereunder. At its expense and cost, the Builder shall defend such claim. The Vendee shall provide such information as it may possess reasonably to enable the Builder to defend such claim. The Builder agrees to and hereby does, to the extent legally possible without impairing any claim, right or cause of action hereinafter referred to, assign, set over and deliver to the Vendee every claim, right and cause of action which the Builder has or hereafter shall have against the seller or sellers of any designs, systems, processes, formulae, combinations, articles or materials specified by the Vendee and purchased or otherwise

acquired by the Builder for use in or about the construction or operation of any of the Equipment on the ground that any such design, system, process, formula, combination, article or material or operation thereof infringes or is claimed to infringe on any patent or other right. The Builder further agrees to execute and deliver to the Vendee ~~or the users of the Equipment~~ all and every such further assurance as may be reasonably requested more fully to effectuate the assignment and delivery of every such claim, right and cause of action. Such covenants of indemnity shall continue in full force and effect notwithstanding the full payment of all sums due under this Agreement, or the satisfaction, discharge or termination of this Agreement in any manner whatsoever.

Annex B
to
Conditional Sale Agreement

<u>Type</u>	<u>AAR Mechanical Designation</u>	<u>Builder's Specifi- cations</u>	<u>Builder's Plant</u>	<u>Quantity</u>	<u>Vendee's Markings</u>	<u>Lessee's Identification Numbers</u>	<u>Estimated Unit Base Price</u>	<u>Estimated Total Base Price</u>	<u>Estimated Time and Place of Delivery</u>
100-ton steel welded and riveted, triple, open hopper cars	HT	#3705 dated July 18, 1977, as amended	Butler, Pa.	1,000	Pullman Leasing Company, Owner, Lessor	CR 489801 through CR 490800	\$30,593.55 <i>35-08</i> <i>6/10</i>	\$30,593,350	October 20- December 15, 1978, at Butler, Pa.

AGREEMENT AND ASSIGNMENT

Dated as of August 1, 1978

between

PULLMAN INCORPORATED
(Pullman Standard Division)

and

THE CONNECTICUT BANK AND TRUST COMPANY,
as Agent

AGREEMENT AND ASSIGNMENT dated as of August 1, 1978, between PULLMAN INCORPORATED (Pullman Standard Division), a Delaware corporation (hereinafter called the Builder), and THE CONNECTICUT BANK AND TRUST COMPANY, a Connecticut banking corporation acting as Agent under a Finance Agreement dated as of the date hereof (hereinafter called the Finance Agreement), a copy of which has been delivered to the Builder, said Agent, as so acting, being hereinafter called the Assignee.

The Builder and Pullman Leasing Company, a Delaware corporation (hereinafter called the Vendee), have entered into a Conditional Sale Agreement dated as of the date hereof (hereinafter called the Conditional Sale Agreement) covering the construction, sale and delivery, on the conditions therein set forth, by the Builder and the purchase by the Vendee of the new railroad equipment described in Annex B to the Conditional Sale Agreement (said equipment being hereinafter called the Equipment) and first put into service not earlier than October 2, 1978.

Accordingly, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration paid by the Assignee to the Builder, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained, the parties hereto agree as follows:

SECTION 1. The Builder hereby assigns, transfers and sets over unto the Assignee, its successors and assigns:

(a) all the right, title and interest of the Builder in and to each unit of Equipment when and as severally delivered to and accepted by the Vendee, subject to payment by the Assignee to the Builder of the amount required to be paid pursuant to Section 4 hereof;

(b) all the right, title and interest of the Builder in and to the Conditional Sale Agreement (except the right to construct and deliver the Equipment and the right to receive the payments specified in subparagraph (a) of paragraph 4.3 thereof and reimbursement for taxes paid or incurred by the Builder) and except as aforesaid in and to any and all amounts which may be or become due or owing to the Builder under the Conditional Sale Agreement on account of the indebtedness in respect of the Purchase Price (as defined in the

Conditional Sale Agreement) of the Equipment and interest and premium thereon, and in and to any other sums becoming due from the Vendee under the Conditional Sale Agreement, other than those hereinabove excluded; and

(c) except as limited by subparagraph (b) of this paragraph, all the Builder's rights, titles, interests, powers, privileges and remedies under the Conditional Sale Agreement;

without any recourse hereunder, however, against the Builder for or on account of the failure of the Vendee to make any of the payments provided for in, or otherwise to comply with, any of the provisions of the Conditional Sale Agreement; provided, however, that this Assignment shall not subject the Assignee to, or transfer, or pass, or in any way affect or modify, the obligations of the Builder to deliver the Equipment in accordance with the Conditional Sale Agreement or with respect to its warranties and agreements referred to in Article 14 of the Conditional Sale Agreement or relieve the Vendee from its obligations to the Builder contained in Articles 2, 3, 4, 6, 14 and 15 of and Annex A to the Conditional Sale Agreement, it being understood and agreed that, notwithstanding this Assignment, or any subsequent assignment pursuant to the provisions of Article 15 of the Conditional Sale Agreement, all obligations of the Builder to the Vendee with respect to the Equipment shall be and remain enforceable by the Vendee, its successors and assigns, against and only against the Builder. In furtherance of the foregoing assignment and transfer, the Builder hereby authorizes and empowers the Assignee in the Assignee's own name, or in the name of the Assignee's nominee, or in the name of and as attorney, hereby irrevocably constituted, for the Builder, to ask, demand, sue for, collect, receive and enforce any and all sums to which the Assignee is or may become entitled under this Assignment and to ask, demand, sue for and enforce compliance by the Vendee with the terms and agreements on its part to be performed under the Conditional Sale Agreement, but at the expense and liability and for the sole benefit of the Assignee.

SECTION 2. The Builder agrees that it shall construct the Equipment in full accordance with the Conditional Sale Agreement and will deliver the same upon completion to the Vendee in accordance with the provisions of the Conditional Sale Agreement; and that, notwithstanding this Assignment, it will perform and fully comply with each of and all the covenants and conditions of the Conditional

Sale Agreement set forth to be performed and complied with by the Builder. The Builder further agrees that it will warrant to the Assignee and the Vendee that at the time of delivery of each unit of the Equipment under the Conditional Sale Agreement it had legal title to such unit and good and lawful right to sell such unit and that such unit was free of any and all claims, liens, charges, security interests and other encumbrances of any nature except only the rights of the Vendee under the Conditional Sale Agreement; and the Builder further agrees that it will defend the title to such unit against the demands of all persons whomsoever based on claims originating prior to the delivery of such unit by the Builder under the Conditional Sale Agreement; all subject, however, to the provisions of the Conditional Sale Agreement and the rights of the Vendee thereunder. The Builder will not deliver any of the Equipment to the Vendee under the Conditional Sale Agreement until the Conditional Sale Agreement and the Assignment have been filed and recorded in accordance with Section 20c of the Interstate Commerce Act (the Builder and its counsel being entitled to rely on advice from special counsel for the Assignee that such filing and recordation have occurred).

SECTION 3. The Builder agrees with the Assignee that in any suit, proceeding or action brought by the Assignee under the Conditional Sale Agreement for any installment of, or interest on, indebtedness in respect of the Purchase Price of the Equipment or to enforce any provision of the Conditional Sale Agreement, the Builder will indemnify, protect and hold harmless the Assignee from and against all expenses, loss or damage suffered by reason of any defense, setoff, counterclaim or recoupment whatsoever claimed by the Vendee arising out of any breach of any obligation of the Builder with respect to the Equipment or the manufacture, construction, delivery or warranty thereof, or by reason of any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Vendee by the Builder. The Builder's obligation so to indemnify, protect and hold harmless the Assignee is conditional upon (a) the Assignee's timely motion or other appropriate action, on the basis of Article 15 of the Conditional Sale Agreement, to strike any defense, setoff, counterclaim or recoupment asserted by the Vendee in any such suit, proceeding or action and (b) if the court or other body having jurisdiction in such suit, proceeding or action denies such motion or other action and accepts such

defense, setoff, counterclaim or recoupment as a triable issue in such suit, proceeding or action, the Assignee's prompt notification to the Builder of the asserted defense, setoff, counterclaim or recoupment and the Assignee's giving the Builder the right, at the Builder's expense, to compromise, settle or defend against such defense, setoff, counterclaim or recoupment.

Except in cases of designs, processes or combinations specified by the Vendee and not manufactured by the Builder and in cases of designs, systems, processes, formulae or combinations specified by the Vendee and not developed or purported to be developed by the Builder, the Builder agrees, except as may otherwise specifically be provided in Annex A to the Conditional Sale Agreement, to indemnify, protect and hold harmless the Assignee from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Assignee or its assigns because of the use in or about the construction or operation of any of the Equipment of any design, system, process, formula, combination, article or material which infringes or is claimed to infringe on any patent or other right. The Assignee will give prompt notice to the Builder of any claim known to the Assignee from which liability may be charged against the Builder hereunder or under the Conditional Sale Agreement. At its own expense and cost, the Builder shall defend against such claim. The Assignee shall provide such information as it may possess reasonably to enable the Builder to defend such claim. The Builder agrees that any amounts payable to it by the Vendee with respect to the Equipment, whether pursuant to the Conditional Sale Agreement or otherwise, not hereby assigned to the Assignee, shall not be secured by any lien, charge, security interest or other encumbrance on or with respect to the Equipment or any unit thereof.

SECTION 4. The Assignee, on each Closing Date fixed as provided in Article 4 of the Conditional Sale Agreement with respect to the Equipment, shall pay to the Builder an amount equal to the portion of the Purchase Price of the units of Equipment, as shown on the invoice or invoices therefor then being settled for, which, under the terms of subparagraph (b) of paragraph 4.3 of said Article 4, is payable in installments, provided that there shall have been delivered to the Assignee (with a copy to the Vendee) at least five business days prior to such Closing Date the following documents, in form and substance satisfactory to it

and to Messrs. Cravath, Swaine & Moore, special counsel to the Assignee, in such number of counterparts as may be reasonably requested by said special counsel:

(a) a bill or bills of sale from the Builder to the Assignee transferring to the Assignee the security interest of the Builder in such units, warranting to the Assignee and to the Vendee that, at the time of delivery of such units under the Conditional Sale Agreement, the Builder had legal title to such units and good and lawful right to sell such units and such units were free of any and all claims, liens, charges, security interests and other encumbrances of any nature except only the rights of the Vendee under the Conditional Sale Agreement, and covenanting to defend the title to such units against the demands of all persons whomsoever based on claims originating prior to the delivery of such units by the Builder under the Conditional Sale Agreement;

(b) a Certificate or Certificates of Acceptance with respect to such units of the Equipment as contemplated by Article 3 of the Conditional Sale Agreement;

(c) an invoice or invoices of the Builder for such units of the Equipment accompanied by or having endorsed thereon a certification by the Vendee as to its approval thereof and otherwise complying with the provisions of paragraph 4.1 of the Conditional Sale Agreement;

(d) an opinion of Messrs. Cravath, Swaine & Moore, who are acting as special counsel for the Assignee and the Investors named in the Finance Agreement, dated as of such Closing Date, to the effect that (i) the Finance Agreement, assuming due authorization, execution and delivery by the Investors referred to therein, has been duly authorized, executed and delivered and is a legal, valid and binding instrument, (ii) the Conditional Sale Agreement has been duly authorized, executed and delivered by the Vendee and the Builder and is a legal, valid and binding instrument, enforceable in accordance with its terms, (iii) this Assignment has been duly authorized, executed and delivered by the Builder and the Assignee and is a legal, valid and binding instrument, (iv) the Assignee is vested with all the rights, titles, interests, powers and privileges purported to be assigned to it by this Assignment, (v) the Assignee has a valid and perfected security interest in such units of the Equip-

ment, and such units, at the time of delivery thereof to the Vendee under the Conditional Sale Agreement, were free from all claims, liens, security interests and other encumbrances (other than those created by the Conditional Sale Agreement), (vi) no authorization of the Interstate Commerce Commission or any other governmental authority is necessary for the valid execution and delivery of the Finance Agreement, the Conditional Sale Agreement or this Assignment, or if any such authority is necessary, it has been obtained, (vii) the Conditional Sale Agreement and this Assignment have been duly filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act, and no other filing or recordation is necessary for the protection of the rights of the Assignee in any state of the United States of America or in the District of Columbia and (viii) registration of the Conditional Sale Agreement, this Assignment or any certificates of interest delivered pursuant to the Finance Agreement is not required under the Securities Act of 1933, as amended, and qualification of an indenture with respect thereto is not required under the Trust Indenture Act of 1939, as amended;

(e) an opinion of counsel for the Vendee, dated as of such Closing Date, to the effect set forth in clauses (i), (ii), (v), (vi), (vii) and (viii) of subparagraph (d) above (said counsel, in rendering such opinion, being permitted to assume due authorization, execution and delivery of the Finance Agreement and this Assignment by parties thereto other than the Vendee) and stating that the Vendee is a duly organized and existing corporation in good standing under the laws of its jurisdiction of incorporation and has the power and authority to own its properties and to carry on its business as conducted on the date thereof;

(f) an opinion of counsel for the Builder, dated as of such Closing Date, to the effect set forth in clauses (iv) and (v) of subparagraph (d) above and stating that (i) the Builder is a duly organized and existing corporation in good standing under the laws of its jurisdiction of incorporation and has the power and authority to own its properties and to carry on its business as conducted on the date thereof, (ii) the Conditional Sale Agreement has been duly authorized,

executed and delivered by the Builder and is a legal and valid instrument binding upon the Builder and enforceable against the Builder in accordance with its terms and (iii) this Assignment has been duly authorized, executed and delivered by the Builder and is a legal and valid instrument binding upon the Builder;

(g) a receipt from the Builder for any payment (other than the payment being made by the Assignee pursuant to the first paragraph of this Section 4) required to be made on such Closing Date to the Builder with respect to such units of the Equipment, unless such payment is made by the Assignee with funds furnished to it for that purpose by the Vendee; and

(h) a certificate of an officer of the Vendee, dated as of such Closing Date, to the effect that (i) no event of default, or event which with the lapse of time and/or demand provided for in the Conditional Sale Agreement could constitute an event of default, shall have occurred and is then continuing and (ii) no tax liens (including tax liens filed pursuant to Section 6323 of the Internal Revenue Code of 1954, as amended) have been filed and are currently in effect which would adversely affect the security interest of the Assignee in the Equipment.

In giving the opinions specified in subparagraphs (d), (e) and (f) of the first paragraph of this Section 4, counsel may qualify any opinion to the effect that any agreement is a legal, valid and binding instrument enforceable in accordance with its terms by a general reference to limitations as to enforceability imposed by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally. In giving the opinions specified in said subparagraphs (d) and (e) and counsel may rely on the opinion of counsel for the Builder as to authorization, execution and delivery by the Builder of the documents executed by the Builder and as to title to the Equipment at the time of delivery thereof under the Conditional Sale Agreement; in giving the opinion specified in said subparagraph (d), counsel may rely as to any matter governed by the laws of any jurisdiction other than New York or the United States of America, on the opinion of counsel for the Builder or the opinions of counsel for the Vendee as to such matter.

The obligation of the Assignee hereunder to make payment for any of the Equipment assigned hereunder is hereby expressly conditioned upon the Assignee having on deposit, pursuant to the terms of the Finance Agreement, sufficient funds available to make such payment and upon payment by the Vendee of the amount required to be paid by it pursuant to subparagraph (a) of paragraph 4.3 of the Conditional Sale Agreement. The Assignee shall not be obligated to make payment at any time if an event of default, or any event which with the lapse of time and/or demand or notice provided for in the Conditional Sale Agreement could constitute an event of default, shall have occurred and be continuing under the Conditional Sale Agreement. In the event that the Assignee shall not make any such payment, the Assignee shall reassign to the Builder, without recourse to the Assignee, all right, title and interest of the Assignee in and to the units of Equipment with respect to which payment has not been made by the Assignee.

SECTION 5. The Assignee may assign all or any of its rights under the Conditional Sale Agreement, including the right to receive any payments due or to become due to it from the Vendee thereunder. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, and upon giving the written notice required in Article 15 of the Conditional Sale Agreement, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder.

SECTION 6. The Builder hereby:

(a) represents and warrants to the Assignee, the Vendee and their successors and assigns, that the Conditional Sale Agreement was duly authorized by it and lawfully executed and delivered by it for a valid consideration, that, assuming due authorization, execution and delivery by the Vendee, the Conditional Sale Agreement is, insofar as the Builder is concerned, a legal, valid and existing agreement binding upon the Builder in accordance with its terms and that it is now in force without amendment thereto;

(b) agrees that it will from time to time, at the request of the Assignee or its successors or assigns, make, execute and deliver all such further instruments of assignment, transfer and assurance and do all such

further acts and things as may be necessary and appropriate in the premises to give effect to the provisions hereinabove set forth and more perfectly to confirm the rights, titles and interests hereby assigned and transferred to the Assignee or intended so to be; and

(c) agrees that, upon request of the Assignee, its successors and assigns, it will execute any and all instruments which may be necessary or proper in order to discharge of record the Conditional Sale Agreement or any other instrument evidencing any interest of the Builder therein or in the Equipment.


SECTION 7. The terms of this Assignment and all rights and obligations hereunder shall be governed by the laws of the State of Illinois, provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act, such additional rights arising out of the filing, recording or depositing of the Conditional Sale Agreement and this Assignment as shall be conferred by the laws of the several jurisdictions in which the Conditional Sale Agreement or this Assignment shall be filed, recorded or deposited, or in which any unit of the Equipment shall be located, and any rights arising out of the marking on the units of Equipment.

SECTION 8. This Assignment may be executed in any number of counterparts, but the counterpart delivered to the Assignee shall be deemed to be the original counterpart. Although for convenience this Assignment is dated as of the date first above written, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be executed in their respective corporate names by duly authorized officials, and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

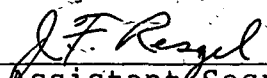
PULLMAN INCORPORATED (Pullman
Standard Division),

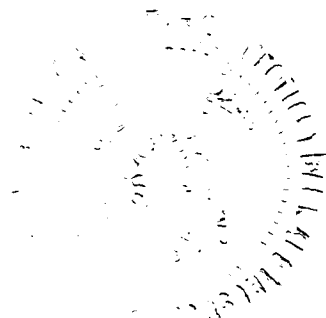
by


Vice President

[Corporate Seal]

Attest:


Assistant Secretary



[Corporate Seal]

THE CONNECTICUT BANK AND TRUST
COMPANY, as Agent under the
Finance Agreement,

by

[Signature]
Authorized Officer

Attest:

[Signature]
Authorized Officer

ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

Receipt of a copy of, and due notice of the assign-
ment made by, the foregoing Agreement and Assignment is
hereby acknowledged as of August 1, 1978.

PULLMAN LEASING COMPANY,

by

[Signature]
Vice President

STATE OF ILLINOIS,)
) ss.:
COUNTY OF COOK,)

On this 17th day of October 1978, before me personally appeared E. J. Ahnquist to me personally known, who being by me duly sworn, says that he is a Vice President of PULLMAN INCORPORATED (Pullman Standard Division), that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Christine Schier
Notary Public

[Notarial Seal]

My Commission expires 9/3/79

STATE OF CONNECTICUT,)
) ss.:
COUNTY OF HARTFORD,)

On this 16th day of October 1978, before me personally appeared F. W. Kawam, to me personally known, who being by me duly sworn, says that he is an Authorized Officer of THE CONNECTICUT BANK AND TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Barbara S. Kacich
Notary Public

[Notarial Seal]

My Commission expires

BARBARA S. KACICH
NOTARY PUBLIC
MY COMMISSION EXPIRES MARCH 31, 1982

BARBARA S. KACICH
NOTARY PUBLIC
MY COMMISSION EXPIRES MARCH 31, 1982